

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 537 - HB 620

March 19, 2019

SUMMARY OF BILL: Establishes that an allocation and distribution of state and local sales tax revenue collections to a certified border region retail tourism development district (district) may be used for costs incurred in connection with developing a project as a whole. Expressly establishes that such costs may include development of portions of a district or businesses within a district, or both, including a retail store, or a series of stores, or other attractions or facilities open to the public that do not or will not, by themselves, generate state sales and use tax revenue. Establishes that costs may also include those incurred in developing a series of developments.

Establishes that the \$20,000,000 capital investment threshold and annual \$2,000,000 state sales and use tax threshold, required of an extraordinary retail or tourism facility, shall be met based on the performance or reasonably anticipated performance of the projects in the districts as a whole, and removes the Commissioner of the Department of Revenue's (DOR) discretion to exclude consideration of a cost to develop any business in a district.

Establishes that no change to, or deviation from, a master development plan for a district, once the district is certified, or a change in, or deviation from, a project in a district that has been certified, shall result in a district losing its certification, or disqualification of any cost, as long as the district is reasonably anticipated to attain the aforementioned thresholds based on objective professional standards.

Establishes that the deciding factor in whether the Commissioners of the DOR and the Department of Economic and Community Development (ECD) approve a request for certification of a district, shall be whether such district is reasonably anticipated to meet the aforementioned thresholds, rather than whether such certification is in the best interest of the state.

Establishes that a respective municipality may submit a summary of the cost of an economic development project through the end of the fiscal year or during the investment period, or both, for which an allocation of state sales and use tax revenue is being requested. Stipulates that if the Commissioner of the DOR has not approved or disapproved of costs provided by the municipality within 90 days of fiscal year-end, such costs are deemed to be approved.

Stipulates that once the Commissioner of the DOR has approved any cost, whether incurred by the municipality, or as a result of delegation, by an industrial development board, such approval shall be deemed conclusive that the district is being developed for an extraordinary retail or tourism facility. Establishes that any developer of a project with a district who has entered into an agreement with a municipality or industrial development board related to such project or any

proposed project or district, has standing to seek remedies and challenge the Commissioner of DOR's determination regarding costs.

ESTIMATED FISCAL IMPACT:

**Forgone State Revenue - \$138,900/FY19-20
\$277,900/FY20-21 and Subsequent Years**

**Decrease State Revenue - \$1,610,400/FY19-20
\$3,220,900/FY20-21 and Subsequent Years**

**Increase Local Revenue - \$1,749,400/FY19-20
\$3,498,700/FY20-21 and Subsequent Years**

Other Fiscal Impact – Secondary economic impacts may occur as a result of this legislation due to increased business activity in Tennessee. Due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

Assumptions:

- Pursuant to Tenn. Code Ann. § 7-40-106(a), if a municipality or industrial development corporation finances, constructs, leases, equips, renovates, assists, incents, or acquires an extraordinary retail or tourism facility or a project in a certified district, then 75 percent of state sales and use tax collected in the district in excess of base tax revenues shall be apportioned and distributed to the municipality in an amount equal to the incremental increase in state sales and use taxes derived from the sale of goods, products, and services within the district in excess of base tax revenues.
- Pursuant to Tenn. Code Ann. § 7-40-106(b), apportionment and distribution of such taxes shall continue for a period of 30 years, or until the date on which all the cost of the economic development project, including any principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project have been fully paid, whichever occurs first.
- The apportionment of such taxes shall only take place if the Commissioner of Department of Revenue (DOR), with approval by the Commissioner of the Department of Economic and Community Development, determine that such allocation of state sales tax is in the best interest of the state. Best interest of the state means a determination that the economic development project or extraordinary retail or tourism facility within the district is a result of the special allocation and distribution of state sales tax, and the district is a result of the project or extraordinary retail or tourism facility.
- This program certified three cities prior to the January 1, 2012 deadline (Kingsport, Bristol, and East Ridge).
- Based on information provided by the DOR, the proposed legislation will result in forgone state revenue as well as a decrease in state revenue.

- Portions of the project that would lead to forgone revenue is based on taxable sales estimated to be \$6,736,000.
- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent; the effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent.
- Of the 7.0 percent state sales tax, 1.0 percent is earmarked to the General Fund and 0.5 percent is earmarked for Education; therefore proceeds from 5.5 percent of the 7.0 percent state sales tax rate (7.0 – 1.0 – 0.5) will be apportioned to the district.
- Forgone revenue of \$277,860 $[(\$6,736,000 \times 5.5\%) \times 75\%]$.
- Taxable sales of the existing businesses for FY17-18 totaled \$78,081,573.
- A decrease in state revenue of \$3,220,865 $[(\$78,081,573 \times 5.5\%) \times 75\%]$.
- It is assumed that there will only be a half-year impact in FY19-20.
- Forgone revenue in FY19-20 of \$138,930 $(\$277,860 \times 50\%)$.
- Recurring forgone state revenue in FY20-21 and subsequent years of \$277,860.
- A decrease in state revenue in FY19-20 of \$1,610,433 $(\$3,220,865 \times 0.5)$.
- A recurring decrease in state revenue in FY20-21 and subsequent years of \$3,220,865.
- The increase in local revenue is estimated to be \$1,749,363 in FY19-20 $(\$138,930 + \$1,610,433)$; and \$3,498,725 in FY20-21 and subsequent years $(\$277,860 + \$3,220,865)$.
- There could be subsequent increases in state and local government revenue and expenditures due to secondary economic impacts prompted by the passage of this legislation. Increases in revenue may occur if the number of businesses increase, and the number of jobs increase, as a direct result of this legislation. Increases in expenditures may occur if the demand for governmental programs and infrastructure increase as a result of any increased business presence in Tennessee. Due to multiple unknown factors such as the extent and timing of any increased business presence, the fiscal impacts directly attributable to such secondary economic impacts are considered indirect and cannot be quantified with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/jdb